



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.05.2018

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THE HON'BLE MRS.JUSTICE T.KRISHNAVALLI

W.P. (MD) No.11317 of 2018

and

WMP (MD) Nos.10308 and 10309 of 2018

Malathi

... Petitioner

-Vs-

- 1.The Home Secretary,
Home Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.
- 2.The Director General of Police,
DGP Office, Mylapore,
Dr.Radhakrishnan Salai, Chennai-5.
- 3.The Dean,
Government Rajaji Hospital,
Madurai.
- 4.The Commissioner of Police,
O/o. Commissioner of Police,
Madurai City,
Madurai.
- 5.The Inspector of Police,
Anna Nagar Police Station,
Madurai City,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd respondent to conduct re-postmortem of the petitioner's son namely Malaisamy body through a two senior professors from Forensic Department and in the presence of an independent expert forensic Doctor from petitioner's side under the full video coverage based on petitioner's representation, dated 21.05.2018 within a stipulated time that may be fixed by this court.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.S.Angappan
Government Advocate



ORDER

The writ petition has been filed for issuing a Writ of Mandamus directing the 3rd respondent to conduct re-postmortem of body of the petitioner's son by name Malaisamy through two senior professors from forensic Department and in the presence of an independent expert forensic Doctor from petitioner's side under the full video coverage.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The case of the petitioner is that her son Malaisamy is working in Wash Care Ready-made Dying Unit and Dry Cleaning Company from 2018 with a monthly salary of Rs.8,000/- and the company is situated in Bharathipuram, Karupppaurani, Madurai and from the month of March 2018, the Company has not paid the monthly salary to her son and when her son approached the Company for salary, they refused to give the same. Under these circumstances, that on 16.05.2018 at 8.30 am, her son went to the said Company and on the same at 11.00 am, some unknown persons from the company informed that her son was admitted in the Vikram Hospital, Madurai and thereafter, she rushed to the hospital and found that her son was sustained bleeding injuries in several parts of the body and one stabbed injury in his throat with sharp edged tools and when she enquired the company owner Basher, he did not give any proper reply and thereafter, her son was taken to Velammal Hospital for further treatment, but as per the advise of the Doctors, he was taken to Government Rajaji Hospital, Madurai, where he died on 20.05.2018.

4. It is the further case of the petitioner that the 5th respondent police registered a case in Crime No.684 of 2018 under Section 174 of Cr.P.C and the petitioner and her relatives seen contusions and wounds on the body of the deceased and came to know that the Wash Care company owner Basher and his hooligans were severely attacked her son for asking his monthly salary. Thereafter, the 3rd respondent hospital authorities did not obtain any signature for conducting postmortem on the body of her son, but they shifted the body to the Mortuary and conducted postmortem.

5. The grievance of the petitioner is that the autopsy was not conducted by the Medical Officer as per the guidelines of the Hon'ble Supreme Court as well as the instructions/guidelines of the National Human Rights Commission.

6. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of People's Union For Civil Liberties and another Vs. State of Maharashtra reported in 2014(10) SCC 635, wherein, it was held in paragraph No.31.3 (f) as under:-

<https://hcservices.ecourts.gov.in/hcservices/>

(1) Post-mortem must be conducted by two doctors in the district hospital, one of them, as far as



possible, should be in-charge/head of the district hospital. Post-mortem shall be videographed and preserved."

7. In this case, the postmortem was done and postmortem certificate was also produced before this Court. This Court has also permitted the counsel for the petitioner to get the copy of the coverage containing the videograph of postmortem done and other particulars to the counsel for the petitioner, so that the petitioner also can impress this Court about any irregularity and to justify the necessity to get independent opinion from expert as to the irregularity and the illegality of the postmortem done by the official respondent. In this connection, the learned counsel for the petitioner, after getting sufficient time from this Court, got an opinion from an expert of his choice. As per the expert opinion, learned counsel for the petitioner pointed out certain anomalies and irregularities not only in the report, but also in the way in which the postmortem was conducted on the body of the petitioner's son. The expert opinion about the manner in which the postmortem was conducted reflects certain irregularities which renders the postmortem report an improper and unreliable one.

8. As a matter of fact, it is represented that the postmortem videograph does not show the image of any doctor, who has actually conducted the autopsy. In such circumstances, this court is of the view that the postmortem alleged to have been conducted is not proper. In the circumstances this Court is of the view that the request of the petitioner for getting independent expert opinion by conducting fresh autopsy can be accepted.

9. The learned Government Advocate, on instructions, submitted that the two professors from Forensic Department of Madurai Medical College, can be appointed as Doctors, who can perform the postmortem on the body of petitioner's son. The request of the learned counsel for the petitioner is that one more expert, who is also qualified can be allowed to perform the postmortem so that the re-postmortem done will serve the purpose for which it is required. Hence, Dr. Juliana and Dr. Rajavelu, professors of Forensic Department, Madurai Medical College are appointed and they are directed to conduct re-postmortem on the body of the petitioner's son along with another professional Dr. Selvakumar, Professor, Kilpauk, Medical College Hospital, Chennai, under full video coverage and it is the responsibilities of the learned counsel for the petitioner to send a copy of this order to Dr. Selvakumar and to bring him for the purpose of his assistance in the process.

10. The Doctors, who are named shall be given all the facilities for conducting the autopsy/re-postmortem at the Government Rajaji Hospital, Madurai. The Hospital authorities also are directed to cooperate in implementing this order in letter and spirit. Since the objection of the petitioner was only on the apprehension which is expressed in the Writ Petition, the petitioner is directed to



accept the body of the petitioner's son.

11. With above observation, this Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-
Vacation Officer

/True copy/

Sub Assistant Registrar

To

1. The Home Secretary,
Home Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.
2. The Director General of Police,
DGP Office, Mylapore,
Dr. Radhakrishnan Salai, Chennai-5.
3. The Dean,
Government Rajaji Hospital,
Madurai.
4. The Commissioner of Police,
O/o. Commissioner of Police,
Madurai City,
Madurai.
5. The Inspector of Police,
Anna Nagar Police Station,
Madurai City,
Madurai.

+1cc to M/s. R. Karunanidhi, Advocate, SR.No. 66097.

W.P.(MD) No. 11317 of 2018
24.05.2018

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RAM/SKN RSK/SAR 3/24.05.2018/4P/7C